



Division of Agricultural Technical Assistance

Agricultural Environmental Enhancement Program

Fiscal Year 2011
(July 1, 2010 to June 30, 2011)

Request for Response (RFR): RFR File: AEEP-11

For the **purchase of materials** to implement
agricultural conservation practices that
improve water quality, conserve water,
or improve air quality

Responses due no later than 4.00 PM on June 30, 2010.

Contact: Laura J. Maul
Telephone: 617-626-1739
Email: laura.maul@state.ma.us



Massachusetts Department of Agricultural Resources
251 Causeway Street, Suite 500
Boston, MA 02114

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REQUEST FOR RESPONSE
RFR File Name/Title: Agricultural Environmental Enhancement Program

This request for a response contains three (3) sections. Section I is a description of the program. Section II is the program response form. Section III contains more detailed information about the RFR specifications and requirements, including funding allocations.

Section I: Description of AEEP Program

1. Purpose

The Massachusetts Department of Agricultural Resources (“Agricultural Resources” or “Department”) invites Massachusetts agricultural operations to submit proposals for funding of materials to implement conservation practices through the Agricultural Environmental Enhancement Program (AEEP). The purpose of AEEP is to support the mitigation and/ or prevention of negative impacts to the Commonwealth’s natural resources that may result from agricultural practices. By providing reimbursement directly to agricultural operations that implement eligible projects that prevent, reduce or eliminate environmental impacts, the program achieves its purpose and goals of minimizing environmental impacts from these operations for the benefit of the public.

AEEP is a competitive, re-imbursement grant program that **funds the acquisition of materials only**. Labor costs and the rental of equipment are among the costs not eligible for re-imbursement.

Practices funded include those that prevent direct impacts on water quality, ensure efficient use of water, and address agricultural impacts on air quality. All projects where the primary focus is renewable energy or energy conservation would need to apply to the Massachusetts Ag-Energy Grant Program.

Reimbursement of up to \$30,000 will be awarded on a competitive basis depending on need. Persons submitting successful proposals will be required to sign a contract with Agricultural Resources. All projects must be completed by June 30, 2011, subject to Department funding sources. Satisfactory receipts for costs of approved materials must be submitted to Agricultural Resources. **NOTE: All funding is subject to appropriation.**

2. Eligible Proposals

Water Quality	<ul style="list-style-type: none">Water quality projects prevent agricultural impacts on water quality. Priority areas for funding for FY11 are wastewater treatment strips for milkhouse wastewater, fencing to keep animals out of a water resource, oil tank containment, pesticide mixing, loading and storage practices, agricultural waste management practices, and composting materials.
Water Conservation	<ul style="list-style-type: none">Water Conservation Projects reduce use of surface water and groundwater resources. Eligible projects include, but are not limited to, drip irrigation (not disposable drip tape), automated irrigation systems, ebb and flow bench systems, and water re-use projects.
Air Quality	<ul style="list-style-type: none">Air Quality projects reduce odor and airborne particulates (dust, pesticides, chemicals, ammonia, nitrates), and greenhouse gases from agricultural operations. Eligible projects include, but are not limited to, efficient pumps meeting EPA Tier II emissions standards, windbreaks, and odor control projects.

3. Project Proposal Eligibility Criteria and Requirements

Criteria	Minimum Requirement
Eligible Applicants	<ul style="list-style-type: none"> Farmers/growers/ aquaculturists as identified by Massachusetts General Laws engaged in production agriculture for commercial purposes (eg. MGL c. 61A.; MGL c. 130 S.57; MGL c. 131 S.23) Licensed stables and commercial horse operations as defined in MGL c.128 S.1A. and that have a current license with the Department according to 330 CMR 16:00. Eligible shellfish growers must possess a current valid shellfish aquaculture license.
Size of Operation (not applicable to shellfish growers)	<ul style="list-style-type: none"> Property must consist of at least five (5) contiguous acres of land under the same ownership and be actively devoted to agricultural or horticultural use¹. Cranberry growers who have at least three acres in bog production. Growers who have at least 5,000 square feet under greenhouse production.
Conservation Plan/ Manure Management Plan	<ul style="list-style-type: none"> Applicants must have proof of a written and updated (within the last five years) Natural Resources Conservation Service (NRCS) Conservation Plan. Eligible horse operations must have either a NRCS conservation plan or a manure management plan in writing.
Locator Maps	<ul style="list-style-type: none"> Applicants must enclose a map with the farm boundaries drawn and the exact location of the project described in this application. Applicants are recommended to contact their local NRCS office for assistance in generating appropriate maps. Applications that do not include a locator map <u>will not be reviewed</u>.
Permits	<ul style="list-style-type: none"> Proposals which are favorably reviewed must receive all required building permits and licenses prior to contract being awarded.
Previously Funded Applicants	
<ul style="list-style-type: none"> Applications from farms that have been previously funded will be considered a lower priority for funding. 	
Ineligible Proposals	
<ul style="list-style-type: none"> Proposals from farmers who are out of compliance with any Massachusetts federal, state or local laws or regulations. Proposals from farms where the main purpose is not commercial agriculture. Proposals from individuals or groups failing to meet requirements for previous Agricultural Resources Standard Contracts and/ or assistance programs or from individuals or groups with poor past contract performance as determined by the Department. Requests for audits, feasibility studies, new wells, repairs to existing facilities such as barn roofs, deer or predator fencing, manure agitator pumps, liquid manure flow meters, flotation tires and vehicles. MDAR retains the right to determine other ineligible proposals on a case by case basis. Proposals where the primary focus is renewable energy or energy conservation. Proposals of this type should apply to Ag-Energy Grant Program. Proposals for the same project in a fiscal year to both the AEEP and the Ag-Energy Grant Programs. 	

¹ Land is used primarily for agricultural or horticultural purposes if it is used primarily and directly to raise or grow the following for sale in the regular course of business: (a) Animals or products derived from animals (b) Fruits, vegetables, berries, nuts and other foods for human consumption, feed for animals, tobacco, flowers, sod, trees, nursery or greenhouse products (c) Forest products under a forest management (MGL 61A § 1, MGL 61A § 2).

4. Project Proposal Details

<p>Maximum Reimbursement</p>	<ul style="list-style-type: none"> Each applicant must submit a proposal and budget requesting no more than \$30,000 in AEEP grant funding. If grant funding is available the Department may increase the maximum threshold at its discretion. Farmers are required to contribute at least 5% of the materials costs of the project. Labor and hiring are not reimbursable costs. Purchase of equipment is mostly not eligible unless the use of that equipment can be shown to have direct environmental benefits. Funding is subject to appropriation.
<p>Proposals Subject to Limited Funding</p>	<ul style="list-style-type: none"> Proposals for irrigation pumps and lift pumps are eligible for \$5,000.00 in funding <i>per applicant respectively</i>. Proposals for 4-stroke engines are eligible for \$2,500.00 in funding <i>per applicant</i>. Projects for automated irrigation systems are eligible for \$10,000.00 in funding <i>per applicant</i>.
<p>Field Visits</p>	<ul style="list-style-type: none"> All projects which are favorably reviewed in the initial evaluation process will require a field visit prior to funding being awarded. A field visit does not guarantee funding for a proposed project. The purposes of the field visit are as follows: <ul style="list-style-type: none"> To verify the information that is presented in the proposal; View the agricultural operation and assess the resource to be addressed; Determine the appropriateness of the practice proposed for the farm; Confirm the ability to implement and maintain the practice; To explore other items deemed necessary, and Develop a basis for future “before and after” comparisons. Agricultural Resources staff may alter or add to the scope of the proposed project to more effectively achieve environmental goals. The funded contractual activity will be evaluated prior to full reimbursement. Work will be evaluated for satisfactory completion and compliance to standards. Spot inspections may be conducted at the Department's discretion on all work for the life of the project.
<p>Construction Standards</p>	<ul style="list-style-type: none"> AEEP funded projects must use USDA-NRCS Standards and Specifications or manufacturer's guidelines for installation standards. Farmers may use DAR Guidelines when installing pesticide mixing, loading and storage facilities available from www.mass.gov/agr/pesticides/waste/publications/mixload_medlarge.pdf
<p>Milkhouse Wastewater Pilot Program</p>	<ul style="list-style-type: none"> This pilot program evaluates the environmental impacts of milkhouse wastewater (MHW) discharges through the use of vegetated treatment areas, such as wastewater treatment strips. Currently, MassDEP does not allow dairy operations to dispose of MHW to the ground without a permit. The pilot program will evaluate whether the discharge of MHW to vegetated treatment areas should be allowed in regulation. Dairy operations that wish to be included in this pilot program will receive enhanced eligibility with AEEP and will be required to execute a written agreement with DAR to install and maintain the vegetated treatment areas, or other treatment system, in accordance with the terms of the pilot program. Subject to MassDEP rules and policies, DAR is particularly interested in alternative systems such as bark mounds or constructed wetlands.

5. Criteria for Evaluation

Responses are evaluated based upon criteria which are ranked in importance by awarding points and which may include:

- Farms located within drinking water protection Zones or which overlie an aquifer.
- The presence or threat of direct discharges of pollutants into surface water bodies or wetlands. Water bodies that are listed in Category 5 of DEP's proposed 2008 Integrated List of Waters will receive enhanced ranking. The list is available (at time of writing) at DEP's website: <http://www.mass.gov/dep/water/resources/tmdls.htm>
- Demonstration of increased efficiencies for water conservation projects. Water conservation proposals should list estimated water savings over current use.
- Demonstration in the reduction of pollution emissions.
- Confirmation that there is a need for the activity.
- Farmers that have been farming for less than five years receive additional points in the ranking.
- Proposals that address more than one resource area of concern.
- Farms with an agricultural restriction under Agricultural Resources' Agricultural Preservation Restriction program.
- Farms currently participating in the Farm Viability or Cranberry Viability Enhancement Programs.
- Farmers who have not been awarded AEEP funds in the past will receive additional points in the ranking.
- Projects that show a clearly thought out timeframe for implementation and the ability to complete the project on or before June 30, 2011.
- Extent to which the responsive proposal justifies the proposed project in the context of environmental benefits.

For Aquaculturists

- Extent to which the response addresses the installation, implementation or incorporation of any of the following:
 - "Best Management Practices for Finfish Aquaculture" available online at http://www.umass.edu/aquaculture/projects/best_management_practices.htm
 - "Best Management Practices for the Shellfish Culture Industry in Southeastern Massachusetts" available online at http://www.mass.gov/agr/aquaculture/docs/Shellfish_BMPs_v09-04a.pdf
 - NRCS conservation practice standard Shellfish Aquaculture Management (code 706).

6. Instructions for Submission of Responses

A proposal form is attached and must be completed and mailed/delivered to Agricultural Resources by the response date deadline. Applications that are sent by fax or electronically will NOT be accepted.

Applications must have US Postal Service date stamp no later than **June 30th, 2010** or may be hand delivered by **4:00 PM on June 30th, 2010**. All materials must be sent to the attention of:

Laura J. Maul
Program Coordinator
Department of Agricultural Resources, Suite 500
251 Causeway Street, Boston, MA 02114

- Agricultural Resources cannot guarantee that any particular grant will be awarded under this Response. Any potential Contract with a successful responder will be subject to the availability of funds consistent with the terms of a Response, any rules or decisions of Agricultural Resources, and all relevant laws and regulations.
- All funding is subject to appropriation.

Official Use Only

Date Received: _____

Received By: _____

Section II**AGRICULTURAL ENVIRONMENTAL ENHANCEMENT PROGRAM RESPONSE FORM (Fiscal Year 2011)**

All of the information on this application must be completed or identified as Not Applicable.

1. Agricultural Operation Information:

Name:	_____	Owner: (if different)	_____
Operation Name:	_____	Legal Structure (e.g. Trust, LLC)	_____
Farm Location:	_____		
Municipality:	_____	Zip Code: _____	County: _____
Home Telephone:	_____	Cell Phone: _____	Email: _____

2. Mailing Address for Farm (if different from above):

Address:	_____		
Municipality:	_____	Zip Code:	_____

3. Eligibility (Check boxes where applicable):

<ul style="list-style-type: none"> I am a farmer /grower / shellfish grower as identified in Massachusetts General Laws Chapter 61A; Chapter. 130 § 57; and Chapter 131 § 23. I am a horse operation as identified in Massachusetts General Law Chapter 128 §1A. 	<input type="checkbox"/> <input type="checkbox"/>
<ul style="list-style-type: none"> The property consists of at least five (5) contiguous acres of land under the same ownership and is actively devoted to agricultural or horticultural use. My operation has at least three acres in bog production My operation is an eligible equine operation My operation has at least 5,000 square feet under greenhouse production. 	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
<ul style="list-style-type: none"> My operation has a written and updated natural resources conservation plan from NRCS (within five years) for the land where the practice is proposed. Greenhouse operators, flower growers and shellfish growers are <u>excluded</u> from this requirement. Horse operations must have either a NRCS conservation plan or a written manure management plan. State the year the plan was created and your NRCS contact: Year: _____ NRCS Contact Person: _____ I am a shellfish grower and posses a current shellfish aquaculture license from the Massachusetts Division of Marine Fisheries License Number: _____ Year _____ I am a licensed stable and posses a current license from the Department of Agricultural Resources License Number: _____ Year _____ 	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>

4. Agricultural Operation Details:

Type of Operation: _____

Acreage Owned: _____ Acreage in Production: _____ Cropland Rented/Lease: _____ If applying for Auto Irrigation System – please indicate acreage to be automated by system(s): _____

Crops Grown and Acreage: _____

Livestock Type

Number of Livestock

Do you have a
Nutrient
Management Plan?

☐ Yes
☐ No

If yes, when was it developed and by whom?

Density per square foot (*Shellfish Only*): _____

Are you a new entry farmer?
(farming for 10 years or less)

☐ Yes
☐ No

Do you rent or lease
the land where this
project takes place?

Do you have a lease in writing for the
land where this project takes place?

When does the
lease end?

Who will own the
materials purchased
using AEEP funds?

5. Participation in Agricultural Resources Programs:

My farm has an Agricultural Preservation Restriction (APR). If yes, list name of farm and the year the restriction was recorded:

a. Year Restriction Recorded: _____ Farm Name (*on the restriction:*) _____

☐ Yes
☐ No

Does your response require a Certificate of Approval from the APR program? ☐ Yes ☐ No

b. My farm has been accepted into or completed the Farm Viability Enhancement Program or the Cranberry Viability Program. If yes, list year accepted:

☐ Yes
☐ No

Year accepted: _____

c. I have previously received AEEP funds. If yes, list the practice funded and year funds were received

Year Funds Received: _____ Practice Funded: _____

☐ Yes
☐ No

6. Project Details:			
Issue(s) of Concern:	Water Quality <input type="checkbox"/>	Water Quantity <input type="checkbox"/>	Air Quality <input type="checkbox"/>
<p>Project Type (for example: Trickle Irrigation; Compost Pad; Manure Storage Pad; Automated Irrigation System):</p> <hr/>			
<p>Provide details on how your proposed project will help improve impacts on the area(s) of concern identified above. Include the names of any resource, and the locations on your operation that are of concern. If water quality is the area of concern, specify if impacts on a public drinking water supply are being addressed through the proposed project. Water conservation proposals should list the estimated water savings over current use. Include information about how your operation is currently addressing the concern.</p>			

7. Budget:

AEEP may reimburse applicants for the costs of materials only up to a maximum of 95%, with a 5% minimum contribution towards the project coming from the applicant. Labor or rental of equipment are not eligible expenses for reimbursement. The Department has the option to negotiate the budget before entering into a contract with the applicant. Preliminary budgets for evaluation purposes are acceptable. However, before any contract is executed applicants must receive quotes from vendors or contractors, where possible. The Department will decide if an applicant has adequately addressed this requirement. *Applicants who provide budgets from a vendor or contractor with their application will receive a higher evaluation.*

If this proposal is associated with a NRCS funded EQIP project, identify your NRCS contact:

Project (Example: fencing)	Materials Needed to Complete the Project (Example: high tensile fencing)	Cost per unit (Example: \$3.00/ft)	Number of Units (Example: 4000ft)	Total Cost of Materials (Example: \$12,000.00)
Total Cost of Materials and Freight			Box A =	\$
Farmer's 5% Contribution of Materials (Box A x 0.05)			Box B =	\$
Eligible Costs of Materials (Box A - Box B)			Box C =	\$

Project (Example: Fencing)	Labor Needed to Complete Project	Cost per unit (\$150.00/hr)	Number of Units (16 hours)	Cost of Labor (Example: \$2,400.00)
Total Labor Costs			Box D =	\$

Total Project Costs (Box C + Box D)	Box E =	
USDA Contribution (Box F)	Box F =	
Total Unfunded Costs (Box E - Box F)	Box G =	

Total Dollars Requested for Funding Through AEEP (Amount in Box C or Box G, or \$40,000 whichever amount is smallest)	
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8. Attestation:

By signing this application you attest all statements herein are accurate and true. By signing this application you also give permission for the Massachusetts Department of Agricultural Resources (MDAR) to review your NRCS Farm Plan if you have one. You also give permission to have a site visit by MDAR staff which will be necessary before a funding decision is made. All site visits will be arranged with you in advance.

Signature: _____ Date: _____

Please complete and return the proposal response form and appropriate maps by the appropriate deadline as described on page 6.

Section III

RFR Specifications

CONTRACT AND PERFORMANCE SPECIFICATIONS

1. PURPOSE OF PROCUREMENT: The purpose of AEEP is to support the mitigation and/ or prevention of negative impacts to the Commonwealth's natural resources, including water and air, that may result from agricultural practices. By providing reimbursement directly to agricultural operations that implement eligible projects that prevent, reduce or eliminate environmental impacts, the program achieves its purpose and goals of minimizing environmental impacts from these operations for the benefit of the public.

2. ACQUISITION METHOD: Fee for Service

3. SINGLE OR MULTIPLE CONTRACTORS FOR CONTRACT PERFORMANCE: Multiple Contractors

4. SINGLE OR MULTIPLE DEPARTMENTS MAY CONTRACT UNDER THIS RFR: Single

5. TOTAL ANTICIPATED DURATION OF CONTRACTS:

Initial Contract Duration: Through June 30th 2011. Maximum obligation of \$30,000 per contract.
Options to Renew: 2(two) 1 year options to renew. Options to Renew not to exceed: 1 year each
Extensions of contracts may be granted solely at the discretion of the Department and subject to funding source and regulations. Any extension must be agreed upon in writing by all parties.

6. TOTAL ANTICIPATED EXPENDITURES FOR TOTAL ANTICIPATED DURATION OF CONTRACT(S):

Estimated Value of Procurement: **Approximately \$475,000**

☒ Contracts will have a Maximum Obligation Amount.

RFR ATTACHMENTS TO BE COMPLETED IF PROJECT IS SELECTED FOR CONTRACT DEVELOPMENT

The submitters of applications/responsive proposals that have been selected for contract development will be required to complete, execute and return some or all of the following documents: (Forms are available via the State Internet site <http://www.comm-pass.com>)

1. Commonwealth Terms and Conditions: If the Commonwealth Terms and Conditions has been executed and filed as a result of a previous contract with the Commonwealth of Massachusetts, vendors selected for contract development will be required to indicate this in your Response. The Commonwealth Terms and Conditions shall be incorporated by reference into any Contract for Commodities and Services executed pursuant to this RFR. A Bidder is required to execute the Commonwealth Terms and Conditions only once.

2. Contractor Authorized Signatory Listing.

3. Verification of Taxation Reporting Information (W-9) Form.

4. Commonwealth Standard Contract.

5. Electronic Funds Transfer Form (EFT). (Optional)

In general, most of the required contractual stipulations are referenced in the Standard Contract Form and the Commonwealth Terms and Conditions (either version). However, the following RFR provisions must appear in all Commonwealth competitive procurements conducted under 801 CMR 21.00:

RFR - REQUIRED SPECIFICATIONS

Issue Date: November 1, 2005

Refresh Date: August 13, 2007

In general, most of the required contractual stipulations are referenced in the *Standard Contract Form and Instructions* and the *Commonwealth Terms and Conditions* (either version). However, the following RFR provisions must appear in all Commonwealth competitive procurements conducted under 801 CMR 21.00:

The terms of 801 CMR 21.00: *Procurement of Commodities and Services* (and 808 CMR 1.00: *Compliance, Reporting and Auditing for Human and Social Services*, if applicable) are incorporated by reference into this RFR. Words used in this RFR shall have the meanings defined in 801 CMR 21.00 (and 808 CMR 1.00, if applicable). Additional definitions may also be identified in this RFR. Unless otherwise specified in this RFR, all communications, responses, and documentation must be in English, all measurements must be provided in feet, inches, and pounds and all cost proposals or figures in U.S. currency. All responses must be submitted in accordance with the specific terms of this RFR.

Items with the text, "*☞ Required for POS Only*" specify a requirement for Purchase of Service (POS) human and social services procured under 801 CMR 21.00, *Procurement of Commodities or Services, Including Human and Social Services* and 808 CMR 1.00, *Compliance, Reporting and Auditing for Human and Social Service*.

Affirmative Market Program (AMP). Massachusetts Executive Order 390 established a policy to promote the award of state contracts in a manner that develops and strengthens Minority and Women Business Enterprises (M/WBEs) that resulted in the Affirmative Market Program in Public Contracting. M/WBEs are strongly encouraged to submit responses to this RFR, either as prime vendors, joint venture partners or other type of business partnerships. All bidders must follow the requirements set forth in the AMP section of the RFR, which will detail the specific requirements relating to the prime vendor's inclusion of M/WBEs. Bidders are required to develop creative initiatives to help foster new business relationships with M/WBEs within the primary industries affected by this RFR. In order to satisfy the compliance of this section and encourage bidder's participation of AMP objectives, the Affirmative Market Program (AMP) Plan for large procurements greater than \$50,000 will be evaluated at 10% or more of the total evaluation. Once an AMP Plan is submitted, negotiated and approved, the agency will then monitor the contractor's performance, and use actual expenditures with SOMWBA certified contractors to fulfill their own AMP expenditure benchmarks. M/WBE participation must be incorporated into and monitored for all types of procurements regardless of size, however, submission of an AMP Plan is mandated only for large procurements over \$50,000.

This RFR will contain some or all of the following components as part of the Affirmative Market Program Plan submitted by bidders:

- Sub-contracting with certified M/WBE firms as defined within the scope of the RFR,
- Growth and Development activities to increase M/WBE capacity,
- Ancillary use of certified M/WBE firms,
- Past Performance or information of past expenditures with certified M/WBEs and
- Additional incentives for bidders to commit to at least one certified MBE and WBE in the submission of AMP plans.

A Minority Business Enterprise (MBE), Woman Business Enterprise (WBE), M/Non-Profit, or W/Non-Profit, is defined as such by the State Office of Minority and Women Business Assistance (SOMWBA). All certified businesses that are included in the bidder's AMP proposal are required to submit an up to date copy of their SOMWBA certification letter. The purpose for this certification is to participate in the Commonwealth's Affirmative Market Program for public contracting. Minority- and Women-Owned firms that are not currently certified but would like to be considered as an M/WBE for the purpose of this RFR should submit their application at least two weeks prior to the RFR closing date and submit proof of documentation of application for consideration with their bid proposal. For further information on SOMWBA certification, contact their office at 1-617-973-8692 or via the Internet at mass.gov/somwba.

Affirmative Market Program Subcontracting Policies. Prior approval of the agency is required for any subcontracted service of the contract. Agencies may define required deliverables including, but not limited to, documentation necessary to verify subcontractor commitments and expenditures with Minority- or Women-Owned Business Enterprises (M/WBEs) for the purpose of monitoring and enforcing compliance of subcontracting commitments made in a bidder's Affirmative Market Program (AMP) Plan. Contractors are responsible for the satisfactory performance and adequate oversight of its subcontractors.

Agricultural Products Preference (only applicable if this is a procurement for Agricultural Products) - Chapter 123 of the Acts of 2006 directs the State Purchasing Agent to grant a preference to products of agriculture grown or produced using locally grown products. Such locally grown or produced products shall be purchased unless the price of the goods exceeds the price of products of agriculture from outside the Commonwealth by more than 10%. For purposes of this preference, products of agriculture are defined to include any agricultural, aquacultural, floricultural or horticultural commodities, the growing and harvesting of forest products, the raising of livestock, including horses, raising of domesticated animals, bees, fur-bearing animals and any forestry or lumbering operations.

Best Value Selection and Negotiation. The Procurement Management Team (PMT) may select the response(s) which demonstrates the best value overall, including proposed alternatives that will achieve the procurement goals of the department. The PMT and a selected bidder, or a contractor, may negotiate a change in any element of contract performance or cost identified in the original RFR or the selected bidder's or contractor's response which results in lower costs or a more cost effective or better value than was presented in the selected bidder's or contractor's original response.

Bidder Communication. Bidders are prohibited from communicating directly with any employee of the procuring department or any member of the PMT regarding this RFR except as specified in this RFR, and no other individual Commonwealth employee or representative is authorized to provide any information or respond to any question or inquiry concerning this RFR. Bidders may contact the contact person for this RFR in the event this RFR is incomplete or the bidder is having trouble obtaining any required attachments electronically through Comm-PASS.

Comm-PASS. Comm-PASS is the official system of record for all procurement information which is publicly accessible at no charge at www.comm-pass.com. Information contained in this document and in each tab of the Solicitation, including file attachments, and information contained in the related Bidders' Forum(s), are all components of the Solicitation.

Bidders are solely responsible for obtaining all information distributed for this Solicitation via Comm-PASS, by using the free Browse and Search tools offered on each record-related tab on the main navigation bar (Solicitations and Forums). Forums support Bidder submission of written questions associated with a Solicitation and publication of official answers. All records on Comm-PASS are comprised of multiple tabs, or pages. For example, Solicitation records contain Summary, Rules, Issuer(s), Intent or Forms & Terms and Specifications, and Other Information tabs. Each tab contains data and/or file attachments provided by the Procurement Management Team. All are incorporated into the Solicitation.

It is each Bidder's responsibility to check Comm-PASS for:

- Any addenda or modifications to this Solicitation, by monitoring the "Last Change" field on the Solicitation's Summary tab, and
- Any Bidders' Forum records related to this Solicitation (see Locating a Online Bidders' Forum for information on locating these records).

The Commonwealth accepts no responsibility and will provide no accommodation to Bidders who submit a Response based on an out-of-date Solicitation or on information received from a source other than Comm-PASS.

Comm-PASS SmartBid Subscription. Bidders may elect to obtain an optional SmartBid subscription which provides value-added features, including automated email notification associated with postings and modifications to Comm-PASS records. When properly configured and managed, SmartBid provides a subscriber with:

- A secure desktop within Comm-PASS for efficient record management
- A customizable profile reflecting the subscriber's product/service areas of interest
- A customizable listing in the publicly accessible Business Directory, an online "yellow-pages" advertisement
- Full-cycle, automated email alert whenever any record of interest is posted or updated
- Access to Online Response Submission, when allowed by the Issuer, to support:
 - paperless bid drafting and submission to an encrypted lock-box prior to close date
 - electronic signature of OSD forms and terms; agreement to defer wet-ink signature until Contract award, if any
 - withdrawal of submitted bids prior to close date
 - online storage of submitted bids

Every public purchasing entity within the borders of Massachusetts may post records on Comm-PASS at no charge. Comm-PASS has the potential to become the sole site for all public entities in Massachusetts. SmartBid fees are only based on and expended for costs to operate, maintain and develop the Comm-PASS system.

Contract Expansion. If additional funds become available during the contract duration period, the department reserves the right to increase the maximum obligation to some or all contracts executed as a result of this RFR or to execute contracts with contractors not funded in the initial selection process, subject to available funding, satisfactory contract performance and service or commodity need.

Costs. Costs which are not specifically identified in the bidder's response, and accepted by a department as part of a contract, will not be compensated under any contract awarded pursuant to this RFR. The Commonwealth will not be responsible for any costs or expenses incurred by bidders responding to this RFR.

Debriefing. *☞ Required for POS Only. This is an optional specification for non-POS RFRs.* Non-successful bidders may request a debriefing from the department. Department debriefing procedures may be found in the RFR. Non-successful POS bidders aggrieved by the decision of a department must participate in a debriefing as a prerequisite to an administrative appeal.

Debriefing/Appeals: Administrative Appeals to Departments. ☞ *Required for POS Only. Not applicable to non-POS bidders.* Non-successful bidders who participate in the debriefing process and remain aggrieved with the decision of the department may appeal that decision to the department head. Department appeal procedures may be found in the RFR.

Debriefing/Appeals: Administrative Appeals to OSD. ☞ *Required for POS Only. Not applicable to non-POS bidders.* Non-successful bidders who participate in the department appeal process and remain aggrieved by the selection decision of the department may appeal the department decision to the Operational Services Division. The basis for an appeal to OSD is limited to the following grounds:

1. The competitive procurement conducted by the department failed to comply with applicable regulations and guidelines. These would be limited to the requirements of 801 CMR 21.00 or any successor regulations, the policies in the OSD Procurement Information Center, subsequent policies and procedures issued by OSD and the specifications of the RFR; or
2. There was a fundamental unfairness in the procurement process. The allegation of unfairness or bias is one that is easier to allege than prove, consequently, the burden of proof rests with the bidder to provide sufficient and specific evidence in support of its claim. OSD will presume that departments conducted a fair procurement absent documentation to the contrary.

Requests for an appeal must be sent to the attention of the State Purchasing Agent at Room 1017, One Ashburton Place, Boston, MA 02108 and be received within fourteen (14) calendar days of the postmark of the notice of the department head's decision on appeal. Appeal requests must specify in sufficient detail the basis for the appeal. Sufficient detail requires a description of the published policy or procedure which was applied and forms the basis for the appeal and presentation of all information that supports the claim under paragraphs 1 or 2 above. OSD reserves the right to reject appeal requests based on grounds other than those stated above or those submitted without sufficient detail on the basis for the appeal.

The decision of the State Purchasing Agent shall be rendered, in writing, setting forth the grounds for the decision within sixty (60) calendar days of receipt of the appeal request. Pending appeals to the State Purchasing Agent shall not prohibit the department from proceeding with executing contracts.

Electronic Communication/Update of Bidder's/Contractor's Contact Information. It is the responsibility of the prospective bidder and awarded contractor to keep current the email address of the bidder's contact person and prospective contract manager, if awarded a contract, and to monitor that email inbox for communications from the PMT, including requests for clarification. The PMT and the Commonwealth assume no responsibility if a prospective bidder's/awarded contractor's designated email address is not current, or if technical problems, including those with the prospective bidder's/awarded contractor's computer, network or internet service provider (ISP) cause email communications sent to/from the prospective bidder/awarded contractor and the PMT to be lost or rejected by any means including email or spam filtering.

Electronic Funds Transfer (EFT). All bidders responding to this RFR must agree to participate in the Commonwealth Electronic Funds Transfer (EFT) program for receiving payments, unless the bidder can provide compelling proof that it would be unduly burdensome. EFT is a benefit to both contractors and the Commonwealth because it ensures fast, safe and reliable payment directly to contractors and saves both parties the cost of processing checks. Contractors are able to track and verify payments made electronically through the Comptroller's Vendor Web system. A link to the EFT application can be found on the [OSD Forms](#) page (www.mass.gov/osd). Additional information about EFT is available on the [VendorWeb](#) site (www.mass.gov/osc). Click on MASSfinance.

Successful bidders, upon notification of contract award, will be required to enroll in EFT as a contract requirement by completing and submitting the *Authorization for Electronic Funds Payment Form* to this department for review, approval and forwarding to the Office of the Comptroller. If the bidder is already enrolled in the program, it may so indicate in its response. Because the *Authorization for Electronic Funds Payment Form* contains banking information, this form, and all information contained on this form, shall not be considered a public record and shall not be subject to public disclosure through a public records request.

The requirement to use EFT may be waived by the PMT on a case-by-case basis if participation in the program would be unduly burdensome on the bidder. If a bidder is claiming that this requirement is a hardship or unduly burdensome, the specific reason must be documented in its response. The PMT will consider such requests on a case-by-case basis and communicate the findings with the bidder.

Environmental Response Submission Compliance. In an effort to promote greater use of recycled and environmentally preferable products and minimize waste, all responses submitted should comply with the following guidelines:

- All copies should be printed double sided.
- All submittals and copies should be printed on recycled paper with a minimum post-consumer content of 30% or on tree-free paper (i.e. paper made from raw materials other than trees, such as kenaf). To document the use of such paper, a photocopy of the ream cover/wrapper should be included with the response.
- Unless absolutely necessary, all responses and copies should minimize or eliminate use of non-recyclable or non-reusable materials such as plastic report covers, plastic dividers, vinyl sleeves and GBC binding. Three ringed binders, glued materials, paper clips and staples are acceptable.
- **Bidders should submit materials in a format which allows for easy removal and recycling of paper materials.**
- Bidders are encouraged to use other products which contain recycled content in their response documents. Such products may include, but are not limited to, folders, binders, paper clips, diskettes, envelopes, boxes, etc. Where appropriate, bidders should note which products in their responses are made with recycled materials.
- Unnecessary samples, attachments or documents not specifically asked for should not be submitted.

Filing Requirements. *Required for POS Only. Not applicable to non-POS bidders.* Successful bidders must have filed their Uniform Financial Statements and Independent Auditor's Report (UFR), as required for current contractors, with the Operational Services Division via the Internet using the UFR eFiling application for the most recently completed fiscal year before a contract can be executed and services may begin. Other contractor qualification/risk management reporting requirements and non-filing consequences promulgated by secretariats or departments pursuant to 808 CMR 1.04(3) may also apply. In the event immediate services are required by a department, a contract may be executed and services may begin with the approval of OSD and the appropriate secretariat. However, unless authorized by OSD and the appropriate secretariat, the contractor will not be paid for any such services rendered until the UFR has been filed.

HIPAA: Business Associate Contractual Obligations. Bidders are notified that any department meeting the definition of a Covered Entity under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) will include in the RFR and resulting contract sufficient language establishing the successful bidder's contractual obligations, if any, that the department will require in order for the department to comply with HIPAA and the privacy and security regulations promulgated thereunder (45 CFR Parts 160, 162, and 164) (the Privacy and Security Rules). For example, if the department determines that the successful bidder is a business associate performing functions or activities involving protected health information, as such terms are used in the Privacy and Security Rules, then the department will include in the RFR and resulting contract a sufficient description of business associate's contractual obligations regarding the privacy and security of the protected health information, as listed in 45 CFR 164.314 and 164.504 (e), including, but not limited to, the bidder's obligation to: implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the protected health information (in whatever form it is maintained or used, including verbal communications); provide individuals access to their records; and strictly limit use and disclosure of the protected health information for only those purposes approved by the department. Further, the department reserves the right to add any requirement during the course of the contract that it determines it must include in the contract in order for the department to comply with the Privacy and Security Rules. Please see other sections of the RFR for any further HIPAA details, if applicable.

Minimum Bid Duration. Bidders responses/bids made in response to this RFR must remain in effect for at least 90 days from the date of bid submission.

Pricing: Federal Government Services Administration (GSA) or Veteran's Administration Supply. The Commonwealth reserves the right to request from the successful bidder(s) initial pricing schedules and periodic updates available under their GSA or other federal pricing contracts. In the absence of proprietary information being part of such contracts, compliance for submission of requested pricing information is expected within 30 days of any request. If the contractor receives a GSA or Veteran's Administration Supply contract at any time during this contract period, it must notify the Commonwealth contract manager.

Pricing: Price Limitation: The bidder must agree that no other state or public entity customer within the United States of similar size and with similar terms and conditions shall receive a lower price for the same commodity and service during the contract period, unless this same lower price is immediately effective for the Commonwealth. If the Commonwealth believes that it is not receiving this lower price as required by this language, the bidder must agree to provide current or historical pricing offered or negotiated with other state or public entities at any time during the contract period in the absence of proprietary information being part of such contracts.

Prompt Payment Discounts (PPD). All bidders responding to this procurement must agree to offer discounts through participation in the Commonwealth Prompt Payment Discount (PPD) initiative for receiving early and/or on-time payments, unless the bidder can provide compelling proof that it would be unduly burdensome. PPD benefits both contractors and the Commonwealth. Contractors benefit by increased, usable cash flow as a result of fast and efficient payments for commodities or services rendered. Participation in the Electronic Funds Transfer initiative further maximizes the benefits with payments directed to designated accounts, thus eliminating the impact of check clearance policies and traditional mail lead time or delays. The Commonwealth benefits because contractors reduce the cost of products and services through the applied discount. Payments that are processed electronically can be tracked and verified through the Comptroller's Vendor Web system. The PPD form can be found under the Forms and Terms tab of this solicitation.

Bidders must submit agreeable terms for Prompt Payment Discount using the PPD form within their proposal, unless otherwise specified by the PMT. The PMT will review, negotiate or reject the offering as deemed in the best interest of the Commonwealth.

The requirement to use PPD offerings may be waived by the PMT on a case-by-case basis if participation in the program would be unduly burdensome on the bidder. If a bidder is claiming that this requirement is a hardship or unduly burdensome, the specific reason must be documented in or attached to the PPD form.

Provider Data Management. *☞ Required for POS Only. Not applicable to non-POS bidders.* The Executive Office of Health and Human Services (EOHHS) has established a Provider Data Management (PDM) business service that is integrated into the Virtual Gateway. PDM is accessible by providers with current POS contracts. Departments may require that bidders with current POS contracts submit certain RFR-required documents through PDM. These documents have been specified in the RFR. When submitting documents via PDM, bidders are required to print and sign a PDM Documentation Summary. PDM users should verify that all information is accurate and current in PDM. Bidders are required to include the signed PDM Documentation Summary in their RFR response.

Public Records. All responses and information submitted in response to this RFR are subject to the Massachusetts Public Records Law, M.G.L., c. 66, s. 10, and to c. 4, s. 7, ss. 26. Any statements in submitted responses that are inconsistent with these statutes shall be disregarded.

Reasonable Accommodation. Bidders with disabilities or hardships that seek reasonable accommodation, which may include the receipt of RFR information in an alternative format, must communicate such requests in writing to the contact person. Requests for accommodation will be addressed on a case by case basis. A bidder requesting accommodation must submit a written statement which describes the bidder's disability and the requested accommodation to the contact person for the RFR. The PMT reserves the right to reject unreasonable requests.

Restriction on the Use of the Commonwealth Seal. Bidders and contractors are not allowed to display the Commonwealth of Massachusetts Seal in their bid package or subsequent marketing materials if they are awarded a contract because use of the coat of arms and the Great Seal of the Commonwealth for advertising or commercial purposes is prohibited by law.

Subcontracting Policies. Prior approval of the department is required for any subcontracted service of the contract. Contractors are responsible for the satisfactory performance and adequate oversight of its subcontractors. Human and social service subcontractors are also required to meet the same state and federal financial and program reporting requirements and are held to the same reimbursable cost standards as contractors.